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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,374	01/23/2004	Sergey N. Razumov	59036-042	4464

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EXAMINER	
ALLEN, WILLIAM J	
ART UNIT	**PAPER NUMBER**
3625	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/762,374	RAZUMOV, SERGEY N.	
	Examiner	Art Unit	
	William J. Allen	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 December 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12,15,16,19,21 and 22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12,15,16,19,21 and 22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Prosecution History Summary

Claims 13-14, 17, and 20 have been canceled.

Claims 1-12, 15-16, 19, and 21-22 are pending and rejected as set forth below.

Response to Arguments

Applicant's arguments filed 12/1/2006 have been fully considered but they are not persuasive. Applicant contests that the disclosure of Barzilay fails to teach where the negotiations take place without intervention of a human operator; however, the Examiner disagrees and asserts that Barzilay clearly teaches this aspect in at least the cited portions of the prior art. Specifically, paragraph 0043 reads as follows:

> "When a match is found, the system generates automatic voice responses at block 60 which replicate a human salesman interacting with the requests and orders of buyer/user 44 by utilizing state-of-the-art interactive voice technology. Utilizing the personal data and purchasing history of buyer/user 44, the system can provide very pointed promotions and special offers, saving time and money for both buyer and seller. This negotiations for a deal and promotion of business is made at block 62".

As can be seen from the above, Barzilay clearly teaches where a replicated salesman generated by the system (i.e. not a human operator) interacts with the customer.

Furthermore, applicant's additional remarks are moot in view of new grounds of rejection. Applicant's amendment has necessitated the new grounds.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 4-7, 10-13, 15-16, 18-19, and 22 rejected under 35 U.S.C. 103(a) as being unpatentable over Barzilay (US 20030093334) in view of Litman et al. (US 6990457).

Regarding claim 1, Barzilay teaches:

input telephone circuitry for receiving incoming telephone calls from customers (see at least: abstract, 0029-0034), and

order processing circuitry responsive to order information supplied from the input circuitry for conducting an interactive session with a customer to fulfill a request for an item being ordered, without intervention of a human operator (see at least: abstract, 0038-0046, Fig. 1, 3A-3B).

In addition to teaching *control circuitry configures to interact with the processing circuitry during an interactive session with a customer* (see at least: Fig. 1, 0029-0032), Barzilay also teaches updating inventory and providing delivery information to a user with the user able to approve and modify their delivery instructions (see at least: 0016, 0021-0022, 0035, 0046-0047). The order processing circuitry of Barzilay is also

configured to, *during an interactive session, receive from the input telephone circuitry an item request indicating an item selected by a customer* (see at least:0003, 0022 (note: "request a specific commodity"), 0043,, claim 3). Barzilay, however, does not expressly teach where *the order processing circuitry is configured to:*

in response to the item request, supply the control circuitry with an item availability request from the customer;

receive an availability response indicating whether the selected item is available at the time of the item request, and

provide the customer, via the input telephone circuitry with information corresponding to the availability response.

In the same field of endeavor, Litman teaches a transaction system capable of utilizing a call center for fulfilling item requests (e.g. hotel rooms) for customers (see at least: abstract, Fig. 1 (note #40)). The system is further compatible to perform the reservation services via the telephone using verbal or touch tone selections, as well as other input mechanisms (i.e. *input telephone circuitry*) (see at least: col. 5 lines 38-43) and. Additionally, though being directed to hotels rooms, the system and method of Litman may be used for transaction for other items besides hotel rooms (see at least: col. 2 lines 54-55). More specifically, Litman teaches receiving the selection of criteria for a hotel room such as geographic area (e.g. city) rating, availability date, and the like on a user interface (see at least: Fig. 2). Litman additionally teaches *in response to the item request, supply the control circuitry with an item availability request from the*

customer (see at least: abstract, col. 5 line 67-col. 6 line 4, col. 6 lines 4-17, Fig. 2-3 and 9); Note that a user selects a hotel by name, city, etc. (i.e. *requests an item*);

receive an availability response indicating whether the selected item is available at the time of the item request, and

provide the customer, via the input telephone circuitry with information corresponding to the availability response (see at least: col. 9 line 27-col. 10 line 4, Fig. 3, 9).

It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Barzilay to have included transmitting and responding to an availability request as taught by Litman in order to provide a system that provides a user with a convenient means of obtaining item availability information according to user specific criteria while allowing a seller to sell items at a discounted price without undercutting the seller's regular prices (see at least: col. 2 lines 9-22 and 28-34, col. 6 lines 30-32, col. 5 lines 10-26).

Regarding claims 4-7, 10-13, and 15-16, Barzilay in view of Litman teaches:

(4) *wherein the order processing circuitry is configured to request delivery of the item to a point of sale selected by the customer* (see at least: Barzilay , 0003, 0035, 0047).

(5) *wherein the order processing system is responsive to information identifying the customer for determining a customer's profile indicating preferences of the customer* (see at least: Barzilay, abstract, 0031, 0033, 0041, Fig. 3A).

(6) *wherein the customer's profile contain a customer's voice sample for recognizing voice messages received from the customer* (see at least: Barzilay, 0033, 0041, Fig. 3A).

(7) *wherein the order processing circuitry is configured to process a customer's voice message associated with the request for an item being ordered* (see at least: Barzilay, abstract, 0031-0035, 0038-0046).

(10) *wherein the voice message identifies a requested point of sale* (see at least: Barzilay, 0003, 0034-0035, 0047).

(11) *wherein the voice message identifies the customer* (see at least: Barzilay, 0033, 0041).

(12) *wherein the order processing circuitry is configured to produce a voice message providing the customer with information relating to the request for an item being ordered* (see at least: Barzilay, 0016, 0033, 0043).

(13) *control circuitry configured to interact with the processing circuitry during the session with the customer* (see at least: Barzilay, abstract, 0030-0034, Fig. 1-2). Note: Retail Control Unit, Delivery Control Unit, Order Preparation Unit, etc.

(15) *wherein during the session with the customer, the control circuitry provides the processing circuitry with a customer's profile indicating preferences of the customer* (see at least: Barzilay, 0022, 0031, 0033, 0043).

(16) *wherein during the session with the customer, the control circuitry provides the processing circuitry with information on a point of sale selected by the customer* (see at least: Barzilay, 0033, 0037, 0047).

Regarding claims 18-19 and 22, claims 18-19 and 22 closely parallel claims 1, 4-7, 10-13, and 15-16. Claims 18-19 and 22 are thereby rejected for at least the reasons above regarding claims 1, 4-7, 10-13, and 15-16.

3. Claims 2-3, 9, 14, 17, and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barzilay in view of Litman, as applied to claims 1, 4-7, 10-13, 15-16, 18-19, and 22, and further in view of Adams et al (US 20210013519).

Regarding claims 2-3, 9, 14, 17, and 20-21, Barzilay in view of Litman teaches all of the above as and further teaches updating inventory and providing delivery information to a user with the user able to approve and modify their delivery instructions (see at least: Barzilay, 0016, 0021-0022, 0035, 0046-0047). Barzilay in view of Litman, however, does not expressly teach determining if an item will be available and be available for delivery by a customer specified time interval. Adams teaches a call center for requesting an item such as a medical testing device, with the call center able to accepting requests from members (see at least: 0014-0019, 0040, 0043-0045, 0054). Adams further teaches a patient or physician (the ordering person) specifying an arrival date (i.e. time interval). The system is able to check available inventory (i.e. whether the item is available immediately and available to be provided by the specified arrival date) and place the order on various queues according to the availability of the ordered device (see at least: 0059-0060). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Barzilay in view of Litman to have included determining the availability of items and their availability for delivery during a customer specified time interval as taught by Adams in order to provide a system for secure home ordering wherein an acknowledgement of an order and estimation of delivery are provided to help ensure the orders are shipped to the proper location (see at least: Adams, 0026, 0033, 0049, 0056).

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barzilay in view of Showghi et al. (US 20030050854, herein referred to as Showghi).

Regarding claim 8, Barzilay teaches all of the above as noted and further teaches using voice over IP to place orders (see at least: claim 7 above, 0013, 0018). Barzilay in view of Litman, however, does not explicitly teach *wherein the voice message identifies the requested item*. Showghi teaches the use of mobile wireless devices such as cellular telephones to call in orders (see at least: abstract, Fig. 3B; 0025). Showghi also teaches where *the voice message identifies the requested item* (see at least: 0052, 0059, 0077, claims 1, and 16-18). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Barzilay in view of Litman to have included *the voice message identifies the requested item* as taught by Showghi in order to provide an ordering system wherein orders could be transmitted orally via microphones in the patron's wireless device without the need to look down to find and press a particular button to respond (see at least: Showghi, 0059).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US 20020147657 discloses a method of and apparatus for determining item availability through a network
- US 20020143655 discloses a remote ordering system for mobile commerce

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443. The examiner can normally be reached on 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William J. Allen
Patent Examiner
January 31, 2007



